

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**U.S. SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**-against-**

**SAEXPLORATION HOLDINGS, INC.,  
JEFFREY H. HASTINGS,  
BRENT N. WHITELEY,  
BRIAN A. BEATTY, and  
MICHAEL J. SCOTT,**

**Defendants, and**

**THOMAS W. O'NEILL and  
LORI E. HASTINGS,**

**Relief Defendants.**

**Civil Action No. 1:20-CV-8423 (PGG)**

**CONSENT OF DEFENDANT MICHAEL J. SCOTT**

1. Defendant Michael J. Scott (“Defendant”) acknowledges having been served with the complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Defendant has pleaded guilty to criminal conduct relating to certain matters alleged in the complaint in this action. Specifically, in *United States v. Scott*, Crim. No. 1:20-cr-534-GHW-3 (S.D.N.Y.) (the “Criminal Case”), Defendant pleaded guilty to violations of 18 U.S.C. §§ 2, 371, 1343, & 1349; 15 U.S.C. 78j(b) & 78ff; and 17 C.F.R. § 240.10b-5. In connection with that plea, Defendant admitted the facts set out in the transcript of his plea allocution, which is attached as Exhibit A to this Consent. This Consent shall remain in full force and effect regardless of the existence or outcome of any further proceedings in the

Criminal Case.

3. Defendant hereby consents to the entry of the Judgment in the form attached hereto (the “Judgment”) and incorporated by reference herein, which, among other things:

- (a) permanently restrains and enjoins Defendant from violations of, and/or aiding and abetting violations of, Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)]; and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]; Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [15 U.S.C. § 78m(a) and 17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13]; Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)]; Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)]; Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)]; and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1]; and
- (b) prohibits Defendant from acting as a director or officer of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

4. Defendant agrees that the Court shall order disgorgement of ill-gotten gains and prejudgment interest thereon; and that the amount of the disgorgement shall be determined by the Court upon motion of the U.S. Securities and Exchange Commission (the “Commission”). Defendant further agrees that, upon motion of the Commission, the Court shall determine

whether a civil penalty pursuant to Section 20 of the Securities Act [15 U.S.C. § 77t] and Section 21 of the Exchange Act [15 U.S.C. § 78u] is appropriate and, if so, the amount of the penalty. Defendant further agrees that in connection with the Commission's motion for disgorgement and/or civil penalties and at any hearing held on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of this Consent or the Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

5. Defendant agrees that, in the event the Court imposes a penalty against him, he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including but not limited to payment made pursuant to any insurance policy, with regards to any civil penalty amounts that Defendant pays pursuant to the Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

6. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

7. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Judgment.

8. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

9. Defendant agrees that this Consent shall be incorporated into the Judgment with the same force and effect as if fully set forth therein.

10. Defendant will not oppose the enforcement of the Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

11. Defendant waives service of the Judgment and agrees that entry of the Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Judgment.

12. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and

other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

13. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges the guilty plea for related conduct described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a

debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court to vacate the Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party..

14. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

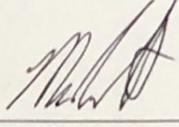
15. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Defendant (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Defendant's undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Defendant's travel, lodging, and

subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Defendant in any United States District Court for purposes of enforcing any such subpoena.

16. Defendant agrees that the Commission may present the Judgment to the Court for signature and entry without further notice.

17. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Judgment.

Dated: 06/09/2021

  
Michael J. Scott

On June 9, 2021, Michael J. Scott, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Kelsey No  
Notary Public in and for the Province of Alberta, Canada  
Commission expires: N/A - Lawyer

KELSEY E. MORRISON  
Barrister, Solicitor  
& Notary Public

Approved as to form:

Jillian Berman  
Jillian Blythe Berman  
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Attorney for Defendant Michael J. Scott

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

20 CR 534 (BM)

6 MICHAEL SCOTT,

7 Defendant.  
-----x

8 New York, N.Y.  
9 May 26, 2021  
10 11:00 a.m.

12 Before:

13 HON. BARBARA C. MOSES,

14 U.S. Magistrate Judge

15 APPEARANCES

16 AUDREY STRAUSS

17 United States Attorney for the  
Southern District of New York

GINA CASTELLANO

CHRISTINE MAGDO

18 Assistant United States Attorneys

19 LANKLER SIFFERT & WOHL LLP

20 Attorneys for Defendant

BY: JILLIAN BERMAN

21 RACHEL S. BERKOWITZ

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1 (The Court and all parties appearing telephonically)

2 THE COURT: Good morning, ladies and gentlemen.

3 Magistrate Judge Moses on the line.

4 Mr. Snell, please call the case.

5 (Case called)

6 THE DEPUTY CLERK: I am now going to call on the  
7 participants to make their appearances.

8 Counsel for the government, please state and spell  
9 your name.

10 MS. CASTELLANO: Good morning, your Honor. Gina  
11 Castellano for the government. G-i-n-a, Castellano is  
12 C-a-s-t-e-l-l-a-n-o. And I am joined by my colleague, AUSA  
13 Christine Magdo. Magdo is M-a-g-d-o.

14 THE COURT: Good morning, Ms. Castellano and  
15 Ms. Magdo.

16 Let's go now to the defense side of our virtual  
17 courtroom.

18 MS. BERMAN: Good morning, your Honor. This is  
19 Jillian Berman of Lankler Siffert & Wohl for the defendant,  
20 Mike Scott, who is here telephonically. My colleague, Rachel  
21 Berkowitz, also of Lankler Siffert & Wohl, is here. I would  
22 also alert the court that we are on video with our client,  
23 Rachel Berkowitz and myself and our client are on video, so we  
24 can see Mr. Scott and he can see us, even though we are only on  
25 audio with the court.

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1                   THE COURT: I think I understood that. Thank you.

2                   Good morning, Ms. Berman and Ms. Berkowitz.

3                   Good morning, Mr. Scott.

4                   Mr. Scott?

5                   THE DEFENDANT: Good morning.

6                   THE COURT: OK. Good morning.

7                   Do we have anybody from law enforcement or pretrial  
8 services participating in this morning's proceeding?

9                   MS. JACKSON: Good morning, your Honor. Dominique  
10 Jackson here from pretrial services.

11                  THE COURT: I know how to spell your last name,  
12 Ms. Jackson, but you still have to do it.

13                  MS. JACKSON: Sorry about that. D-o-m-i-n-i-q-u-e,  
14 last name J-a-c-k-s-o-n from pretrial services.

15                  THE COURT: Thank you very much. And good morning,  
16 Ms. Jackson.

17                  Anybody else who needs to make an appearance?

18                  (Pause)

19                  OK. Mr. Scott, for the record, I'm not really  
20 concerned about this, but I will ask you anyway.

21                  Do you speak and understand English fluently?

22                  THE DEFENDANT: Yes, I do, your Honor.

23                  THE COURT: Thank you very much.

24                  I'm now going to go down the list of everyone who has  
25 made an appearance, and if you could just, now that everyone

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1 has spoken, if you could just confirm for me that you are all  
2 able to clearly hear the court, all of the lawyers, the  
3 defendant, and pretrial services.

4 I'll begin with Ms. Castellano.

5 MS. CASTELLANO: I can clearly hear. Thank you.

6 THE COURT: Great.

7 Ms. Magdo?

8 MS. MAGDO: Yes, your Honor.

9 THE COURT: Thank you.

10 Ms. Berman?

11 MS. BERMAN: Yes, your Honor.

12 THE COURT: Ms. Berkowitz?

13 MS. BERKOWITZ: Yes, your Honor.

14 THE COURT: Ms. Jackson?

15 MS. JACKSON: Yes, your Honor.

16 THE COURT: And Mr. Scott?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Great.

19 We are here for Mr. Scott's initial appearance,  
20 presentment, arraignment, and I'm told change of plea. But  
21 before we can get to all of these matters, I need to take care  
22 of some preliminaries, due to the fact that we are conducting  
23 this conference remotely via teleconference because of the  
24 continuing effects of the COVID-19 pandemic.

25 We are on a teleconference rather than a video

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1 conference because the capacity and reliability of our current  
2 technical facilities here in the Southern District of New York  
3 are such that I deem video conferencing not reasonably  
4 available for this particular proceeding. I therefore find  
5 that telephonic conferencing is an acceptable way to proceed,  
6 and I note that it is authorized by Section 15002 of the CARES  
7 Act and by standing orders of this court.

8 I also find that it would be impractical and imprudent  
9 to insist on the defendant's physical signature, his ink  
10 signature, on any documents that may be required today.  
11 Accordingly, pursuant to the CARES Act and standing orders of  
12 the court, I conclude that any necessary signatures may be  
13 obtained, executed, or transmitted electronically.  
14 Alternatively, the defendant may, if he wishes, consent to have  
15 counsel or the court sign any necessary form on his behalf.

16 Because we are on the phone and there are a lot of us,  
17 I remind the participants to be careful to speak one at a time.  
18 It is helpful if you mute your line when you're not speaking to  
19 cut down on background noise. But it is even more important  
20 that you unmute yourself when it is time for you to speak.  
21 Please do interrupt. This is the one time you're allowed to  
22 interrupt. And let me know if for some reason you cannot hear  
23 or understand what is being said by someone else, and we will  
24 try to fix the problem.

25 Our teleconference line is open to the public,

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1 including the press, on a listen-only basis. If you are on  
2 that line, I ask that you mute the line at your end and keep it  
3 on mute. Please be aware that just as if you were physically  
4 in my courtroom, all of you are prohibited from making any home  
5 audio or video recording or from rebroadcasting court  
6 proceedings.

7 Let me begin, since we are conducting this proceeding  
8 remotely, Ms. Berman, by asking you, tell me where your client  
9 is physically located and confirm for me that you had an  
10 opportunity to consult with him privately in advance of this  
11 morning's proceeding.

12 MS. BERMAN: Yes, your Honor.

13 My client, Mr. Scott, is physically located at his  
14 home in Canada. And we have had an opportunity to consult  
15 about this proceeding prior to appearing before the court.

16 THE COURT: That was a confidential consultation,  
17 correct?

18 MS. BERMAN: Correct, your Honor.

19 THE COURT: And you were able to cover both the  
20 substance of what would happen today and also the fact that I  
21 would need the defendant's consent to proceed remotely, is that  
22 right?

23 MS. BERMAN: Yes, your Honor. We have covered all of  
24 that.

25 THE COURT: Thank you very much.

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1                   Mr. Scott, normally, of course, everybody  
2 participating in this proceeding would be physically present  
3 with me in my courtroom. You do have the right to be  
4 physically present in court for most phases of a criminal case  
5 against you, but that right can be waived.

6                   Did you discuss these facts with your lawyer when you  
7 spoke to her before we got on the phone today?

8                   THE DEFENDANT: Yes, I did, your Honor.

9                   THE COURT: I've been present with two copies of two  
10 waiver forms relevant to the remote situation. One is  
11 called --

12                   Kevin, did we lose someone?

13                   THE DEPUTY CLERK: No. Someone just joined.

14                   THE COURT: One is called consent to proceed by video  
15 or teleconference. It states that you voluntarily consent to  
16 participate in a variety of proceedings, including this one,  
17 via video conferencing or teleconferencing, and it appears to  
18 bear your signature.

19                   Did you sign that consent form, Mr. Scott, after  
20 consultation with counsel?

21                   THE DEFENDANT: Yes, I did, your Honor.

22                   THE COURT: I have a second form which says waiver  
23 of right to be present at a criminal proceeding, which  
24 specifically pertains to a plea of guilty and which also  
25 appears to bear your signature.

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1 Did you sign that form as well?

2 THE DEFENDANT: Yes, I did, your Honor.

3 THE COURT: And I will ask you on the record, do you  
4 agree to participate in all phases of today's proceeding,  
5 including a plea of guilty, without having your lawyer  
6 physically present beside you and without yourself being  
7 physically in my courtroom?

8 THE DEFENDANT: Yes, I do, your Honor.

9 THE COURT: Thank you very much.

10 I find that the defendant has knowingly and  
11 voluntarily agreed to participate in this proceeding by  
12 telephone conference after consultation with counsel.

13 Let us turn to the substance of the business at hand.  
14 It is my understanding, Ms. Castellano, that this defendant has  
15 not been previously charged by complaint or otherwise, and that  
16 the information, which I have received a copy of, is the first  
17 charging document in the case.

18 Is that correct?

19 MS. CASTELLANO: It is, your Honor.

20 THE COURT: All right. So the first thing we will do  
21 then is we will take the defendant's waiver of indictment, and  
22 I will ask my courtroom deputy, Mr. Snell, to take that waiver.

23 THE DEPUTY CLERK: Thank you, Judge.

24 You are Michael Scott?

25 THE DEFENDANT: Yes, I am.

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1                   THE DEPUTY CLERK: Have you signed the waiver of  
2 indictment?

3                   THE DEFENDANT: Yes, I have.

4                   THE DEPUTY CLERK: Before you signed it, did you  
5 discuss it with your attorney?

6                   THE DEFENDANT: Yes, I had.

7                   THE DEPUTY CLERK: Did your attorney explain it to  
8 you?

9                   THE DEFENDANT: Yes, she did.

10                  THE DEPUTY CLERK: Do you understand what you are  
11 doing?

12                  THE DEFENDANT: Yes, I do.

13                  THE DEPUTY CLERK: Do you understand that you are  
14 under no obligation to waive indictment?

15                  THE DEFENDANT: Yes, I do.

16                  THE DEPUTY CLERK: Do you understand that if you do  
17 not waive indictment, if the government wants to prosecute you,  
18 they would have to present this case to a grand jury, which may  
19 or may not indict you?

20                  THE DEFENDANT: Yes, I do.

21                  THE DEPUTY CLERK: Do you understand that by signing  
22 this waiver of indictment, you have given up your right to have  
23 this case presented to a grand jury?

24                  THE DEFENDANT: Yes, I do.

25                  THE DEPUTY CLERK: Do you understand what a grand jury

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1 is?

2 THE DEFENDANT: Yes, I do.

3 THE DEPUTY CLERK: Have you seen a copy of the  
4 information?

5 THE DEFENDANT: Yes, I have.

6 THE DEPUTY CLERK: Do you waive its public reading?

7 THE DEFENDANT: Yes, I do.

8 THE DEPUTY CLERK: Thank you.

9 THE COURT: Thank you very much, Mr. Snell.

10 Now that you have been charged, Mr. Scott, let me  
11 explain to you what is going to happen next.12 I am going to more officially, even more officially  
13 than Mr. Snell has already done, inform you of the charges  
14 against you. We will consider whether counsel should be  
15 appointed for you and decide under what conditions, if any, you  
16 shall be released pending trial, which we may defer under the  
17 circumstances.18 Let me ask the government first, the defendant is not  
19 under arrest, is that correct?

20 MS. CASTELLANO: That's correct, your Honor.

21 THE COURT: All right. This was an arranged  
22 appearance, correct?

23 MS. CASTELLANO: That's correct.

24 THE COURT: All right. So, Mr. Scott, I will explain  
25 certain constitutional rights that you have. You have the

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1 right to remain silent. You are not required to make any  
2 statements. Even if you have already made statement to the  
3 authorities, you are not required to make any further  
4 statements. Any statements that you do make can be used  
5 against you.

6 You have the right to be released, either  
7 conditionally or unconditionally, pending trial unless I find  
8 that there are no conditions that would reasonably assure the  
9 safety of the community and your presence in court when  
10 required.

11 If you are a foreign national, which you appear to be,  
12 you have the right to request that a consular officer from your  
13 country of origin be notified of your arrest. In some cases, a  
14 treaty or other agreement may require the United States  
15 Government to give that notice, whether you request it or not.  
16 I'm just looking at the pretrial services report to see whether  
17 it covers Canada as a mandatory notification nation.

18 Do you know the answer to that, Ms. Castellano?

19 MS. CASTELLANO: I don't, your Honor. But as I said  
20 earlier, Mr. Scott was not arrested in this case.

21 THE COURT: I understand he is not presently under  
22 arrest, but he has been charged, so that may bring the  
23 notification provision into effect. I will leave that to your  
24 office to figure out.

25 MS. CASTELLANO: I will do that, your Honor.

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1                   THE COURT: Mr. Scott, you have the right to be  
2 represented by an attorney during all court proceedings,  
3 including this one, and during all questioning by the  
4 authorities. If you cannot afford an attorney, I will appoint  
5 one today to represent you.

6                   I take it, Ms. Berman, that your firm has been  
7 retained and that there is no application for appointed  
8 counsel, is that correct?

9                   MS. BERMAN: That's correct, your Honor.

10                  THE COURT: All right. So turning now to the  
11 information, which I know you have read, Mr. Scott, because you  
12 told Mr. Snell that you have read it, let me summarize for you  
13 nonetheless that you are charged in Count One with conspiracy  
14 to commit securities fraud, making false filings with the SEC,  
15 and making false filings to auditors, in violation of Title 18  
16 of the United States Code, Section 371.

17                  You are charged in Count Two with securities fraud, in  
18 violation of 15, United States Code, Sections 78jband 78ff and  
19 related SEC regulations.

20                  You are charged in Count Three with conspiracy to  
21 commit wire fraud, in violation of 18, United States Code,  
22 Section 1349.

23                  And you are charged in Count Four with wire fraud in  
24 violation of 18, United States Code, Section 1343 and 2.

25                  Counsel, have you had the opportunity to review the

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1 information with your client and do you waive a detailed  
2 reading of the charges?

3 MS. BERMAN: Yes, we have reviewed it with our client  
4 and we waive public reading.

5 THE COURT: All right. For arraignment purposes,  
6 counsel, what plea shall I enter to the information?

7 MS. BERMAN: Your Honor, Mr. Scott intends to plead  
8 guilty to all four counts in the information.

9 THE COURT: Right.

10 MS. BERMAN: I don't know --

11 THE COURT: This is where you're supposed to say that  
12 he pleads not guilty.

13 MS. BERMAN: He enters a plea of not guilty at this  
14 point, your Honor.

15 THE COURT: A plea of not guilty will be entered to  
16 the information, and the record should reflect that the  
17 defendant has been arraigned.

18 In accordance with Rule 5(f) of the Federal Rules of  
19 Criminal Procedure, I now direct the prosecution to comply with  
20 its obligation under Brady v. Maryland and its progeny to  
21 disclose to the defense all information, whether admissible or  
22 not, that is favorable to the defendant, material either to  
23 guilt or to punishment, and known to the prosecution.

24 Possible consequences for noncompliance may include  
25 dismissal of individual charges or the entire case, exclusion

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1 of evidence, and professional discipline or court sanctions on  
2 the attorneys responsible.

3 I will be entering a written order more fully  
4 describing this obligation and the possible consequences of  
5 failing to meet it, and I direct the prosecution to review and  
6 comply with that order.

7 Ms. Castellano, does the government confirm that it  
8 understands its obligations under Brady and progeny and will  
9 comply with them?

10 MS. CASTELLANO: Yes, your Honor.

11 THE COURT: Thank you very much.

12 I take it that there is no request to exclude time  
13 because we are about to entertain a plea?

14 MS. CASTELLANO: That's correct, your Honor.

15 THE COURT: OK. One moment, please.

16 Ms. Berman, as you told me earlier, your client is now  
17 prepared to change his plea and plead guilty to Counts One  
18 through Four of the information, is that correct?

19 MS. BERMAN: Yes, your Honor.

20 THE COURT: OK. I have another form here somewhere  
21 entitled consent to proceed before a United States Magistrate  
22 Judge on a felony plea allocution. Mr. Scott, this form also  
23 appears to bear your signature.

24 Did you sign the consent to proceed before a  
25 magistrate form?

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1                   THE DEFENDANT: Yes, I did, your Honor.

2                   THE COURT: As you know, what this form says is that  
3 you have a right to have your plea taken by a United States  
4 District Judge, but you are agreeing to have your plea taken by  
5 a United States Magistrate Judge, which is what I am.

6                   As a magistrate judge, I have the authority to take  
7 your plea with your consent, and you are entitled to all of the  
8 same rights and protections as if you were before a district  
9 judge. If you are found guilty, you will be sentenced by the  
10 district judge presiding over your case.

11                  Did you sign this consent form voluntarily?

12                  THE DEFENDANT: Yes, I did, your Honor.

13                  THE COURT: Before you signed the form, did your  
14 lawyer explain it to you?

15                  THE DEFENDANT: Yes, she did.

16                  THE COURT: Do you wish to proceed with your plea  
17 before me today?

18                  THE DEFENDANT: Yes, I do, your Honor.

19                  THE COURT: Thank you very much.

20                  Your consent is accepted. Now I need to hear it from  
21 you.

22                  Mr. Scott, is it your wish to enter a plea?

23                  Mr. Scott, can you confirm to me that it is your  
24 intention today to change your plea and to enter a plea of  
25 guilty to Counts One through Four of the information?

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1                   THE DEFENDANT: Yes, it is, your Honor.

2                   THE COURT: Thank you.

3                   Before deciding whether to accept your guilty plea, I  
4 need to ask you a series of questions. It is very important  
5 that you answer these questions honestly and completely. The  
6 purpose of the questions is to make sure that you understand  
7 your rights, to make sure that you are pleading guilty of your  
8 own free will, and to make sure that you are pleading guilty  
9 because you are guilty and not for any other reason.

10                  Do you understand what I'm saying?

11                  THE DEFENDANT: Yes, I do, your Honor.

12                  THE COURT: If you don't understand any of the  
13 questions I ask or if you simply want a moment to consult with  
14 your lawyer, please let me know, I will give you that time. It  
15 is important that you understand every question before you  
16 answer.

17                  Are you ready?

18                  THE DEFENDANT: Yes, I am. Thank you.

19                  THE COURT: I will ask the courtroom deputy to swear  
20 the defendant, please.

21                  (Defendant sworn)

22                  Mr. Scott, you are now under oath. What that means is  
23 that if you answer any of my questions falsely, intentionally  
24 falsely, you could be prosecuted for perjury based on those  
25 answers.

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1                   What is your full name, please?

2                   THE DEFENDANT: Michael James Scott.

3                   THE COURT: How old are you, Mr. Scott?

4                   THE DEFENDANT: I am 63.

5                   THE COURT: And you are not a United States citizen,  
6 is that correct?

7                   THE DEFENDANT: That is correct.

8                   THE COURT: Are you a citizen of Canada?

9                   THE DEFENDANT: Yes, I am.

10                  THE COURT: Thank you.

11                  What is your highest educational level, please?

12                  THE DEFENDANT: High school graduation.

13                  THE COURT: You're a high school graduate.

14                  No college?

15                  THE DEFENDANT: No. I attended a couple of semesters,  
16 but didn't get any degrees.

17                  THE COURT: No degrees beyond high school?

18                  THE DEFENDANT: Correct.

19                  THE COURT: All right. Can you read and write?

20                  THE DEFENDANT: Yes, I can.

21                  THE COURT: Are you now or have you recently been  
22 under the care of a doctor, a psychiatrist, or a psychologist  
23 for any reason?

24                  THE DEFENDANT: No, I have not.

25                  THE COURT: Do you have any condition that affects

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1 your ability to see or to hear?

2 THE DEFENDANT: I do not.

3 THE COURT: Do you have any condition that affects  
4 your ability to think or to understand or to make judgments or  
5 decisions on your own behalf?

6 THE DEFENDANT: I do not.

7 THE COURT: During the last 24 hours, have you  
8 consumed any alcoholic beverages?

9 THE DEFENDANT: No, I have not.

10 THE COURT: In the last 24 hours, have you taken any  
11 drugs, medicine or pills, that affect your mental processes,  
12 whether or not prescribed by a doctor?

13 THE DEFENDANT: No, I have not.

14 THE COURT: Is your mind clear today?

15 THE DEFENDANT: Yes, it is, your Honor.

16 THE COURT: Do you understand what is happening in  
17 this proceeding?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Does any counsel in this matter have any  
20 objections to Mr. Scott's competence to plead at this time?

21 MS. BERMAN: No, your Honor.

22 MS. CASTELLANO: No from the government, your Honor.

23 THE COURT: Thank you very much.

24 Mr. Scott, you have received and read a copy of the  
25 information that contains the charges against you, is that

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1 correct?

2 THE DEFENDANT: That's correct, your Honor, yes.

3 THE COURT: Would you like me to read it to you now?

4 THE DEFENDANT: I have gone through it numerous times.

5 I am aware of the charges.

6 THE COURT: OK. It is an offer. You don't have to  
7 say yes, but would you like me to read it to you?

8 THE DEFENDANT: I'm sorry. No, that's fine.

9 THE COURT: OK. Do you understand what it says you  
10 did?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Have you had time to talk to your attorney  
13 about the charges and about how you wish to plead?

14 THE DEFENDANT: Yes, I have.

15 THE COURT: Has your attorney explained the  
16 consequences of pleading guilty?

17 THE DEFENDANT: Yes, she has.

18 THE COURT: OK. I am now going to explain certain  
19 constitutional rights that you have. These are rights that you  
20 have now, but that you will be giving up if you enter a guilty  
21 plea.22 Please listen carefully to what I am about to say, and  
23 again, if you don't understand something, feel free to stop me,  
24 and either I or your attorney will explain the issue more  
25 fully.

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1                   Under the Constitution and laws of the United States,  
2 you have a right to plead not guilty to all of the charges  
3 against you.

4                   Do you understand that?

5                   THE DEFENDANT: Yes, I do.

6                   THE COURT: If you plead not guilty, you will be  
7 entitled, under the Constitution and laws of the United States,  
8 to a speedy and public trial by jury. At trial you would be  
9 presumed innocent. The government would be required to prove  
10 you guilty beyond a reasonable doubt before you could be found  
11 guilty. You could not be convicted unless a jury of 12 people  
12 agreed unanimously that you are guilty beyond a reasonable  
13 doubt.

14                   Do you understand that?

15                   THE DEFENDANT: Yes, I do.

16                   THE COURT: If you go to trial, then at that trial and  
17 at every stage of the case, you would have the right to be  
18 represented by an attorney. If you could not afford an  
19 attorney, an attorney would be appointed to represent you at  
20 the government's expense.

21                   Even if you began with retained counsel, that is  
22 private defense counsel, if you should run out of money, an  
23 attorney would be appointed at that time to continue to  
24 represent you. You would be entitled to an attorney all the  
25 way through trial and not just for a guilty plea. So your

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1 decision to plead guilty should not depend on whether you can  
2 afford to hire a lawyer.

3 Do you understand that?

4 THE DEFENDANT: Yes, I do, your Honor.

5 THE COURT: During trial the witnesses for the  
6 prosecution would have to come to court and testify in your  
7 presence where you could see them and hear them and your lawyer  
8 could cross-examine them. If you wanted, your lawyer could  
9 offer evidence on your behalf as well, defense evidence.

10 Your lawyer would be able to use the court's power,  
11 known as subpoena power, to compel witnesses to come to court  
12 to testify even if they did not want to come.

13 Do you understand that?

14 THE DEFENDANT: Yes, I do, your Honor.

15 THE COURT: At trial you would have the right to  
16 testify in your own defense if you wanted to. You would also  
17 have the right not to testify. And if you chose not to  
18 testify, that could not be used against you in any way. No  
19 inference or suggestion of guilt would be permitted from the  
20 fact that you did not testify.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do, your Honor.

23 THE COURT: If you are convicted at trial, if you were  
24 convicted at trial, you would have the right to appeal that  
25 verdict to a higher court.

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1                   Do you understand that?

2                   THE DEFENDANT: Yes, I do.

3                   THE COURT: As I have said before, you have the right  
4 to plead not guilty. Even today, although you dialed into this  
5 conference call for the purpose of entering a guilty plea, you  
6 have the right to change your mind, persist in your not guilty  
7 plea, and go to trial. If you do plead guilty and if the court  
8 accepts your plea, you will give up the right to a trial and  
9 the rights that go with it that I have just described. If you  
10 plead guilty, there won't be any trial. All that will remain  
11 to be done will be to impose a sentence. You and the  
12 government will have a chance to make arguments about what  
13 sentence you should get, but there won't be any further trial  
14 to determine whether you are guilty or not guilty of the  
15 charges to which you pled guilty.

16                   Do you understand that?

17                   THE DEFENDANT: Yes, I do, your Honor.

18                   THE COURT: Do you also understand that the decision  
19 as to the appropriate sentence in your case will be entirely up  
20 to the sentencing judge, not me and not the government  
21 attorneys. That judge will be limited only by what the law  
22 requires.

23                   THE DEFENDANT: Yes, I do.

24                   THE COURT: What this means is that even if you are  
25 surprised or disappointed by your sentence, you will still be

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1 bound by your guilty plea.

2 Do you understand that?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: Finally, if you do plead guilty, you are  
5 also giving up your right to remain silent. You are giving up  
6 your right not to incriminate yourself. I will ask you  
7 questions about what you did in order to satisfy myself that  
8 you are actually guilty. So by pleading guilty, you will be  
9 admitting your factual as well as your legal guilt.

10 Do you understand that?

11 THE DEFENDANT: Yes, I do, your Honor.

12 THE COURT: All right. We went over the charges in  
13 the information just a moment ago, but to recap, you are  
14 charged in Count One with conspiracy to commit securities fraud  
15 and Count Two with securities fraud and Count Three with  
16 conspiracy to commit wire fraud and in Count Four with wire  
17 fraud.

18 I am going to ask the Assistant United States Attorney  
19 to state the elements of those charges. I think we will do all  
20 four at once, Ms. Castellano. The elements, Mr. Scott, are the  
21 things that the government would have to prove at trial.

22 Counsel, go ahead.

23 MS. CASTELLANO: Thank you, your Honor.

24 As to Count One, there are three elements.

25 First, that there existed an agreement or

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1 understanding to commit the object crimes charged in the  
2 information;

3 Second, that the defendant knowingly and willfully  
4 became a member of the conspiracy; and

5 Third, that any one of the conspirators knowingly and  
6 willfully committed at least one overt act in furtherance of  
7 the conspiracy during the life of the conspiracy.

8 This count in the information has three objects, and I  
9 will go through the elements of those objects now.

10 I will also note, your Honor, that object one, which  
11 is securities fraud, is substantive count charged in Count Two  
12 of the information, so the same elements will apply.

13 The elements are that:

14 First, in connection with the purchase or sale of  
15 stock or shares in a company, the defendant did any one or more  
16 of the following:

17 One, employed a device, scheme, or artifice to  
18 defraud; or

19 Two, made an untrue statement of a material fact, or  
20 omitted to state a material fact, which made what was said  
21 under the circumstances misleading; or

22 Three, engaged in an act, practice, or course of  
23 business that operated or would operate as a fraud or deceit  
24 upon a purchaser or seller.

25 The second element is that the defendant acted

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1 knowingly, willfully, and with the intent to defraud.

2 The third element is that the defendant used or caused  
3 to be used any means or instruments of transportation or  
4 communication in interstate commerce or the use of the mail in  
5 furtherance of the fraudulent conduct.

6 The second object filed with the SEC has two elements:

7 First, that the company at issue here, SA Exploration  
8 was required by the Securities Exchange Act of 1934 to file the  
9 document charged in that count;

10 Second, that the defendant knowingly and willfully  
11 made or caused to be made a material false or misleading  
12 statement in that document.

13 The third object, false statements to auditors, has  
14 the following elements:

15 That two or more persons agreed that the directors or  
16 officers of a public company would, directly or indirectly,  
17 make or cause to be made a materially false or misleading  
18 statement, or that those officers or directors would, directly  
19 or indirectly, omit to state or cause another person to omit to  
20 state a material fact necessary in order to make the statements  
21 made in light of the circumstances under which such statements  
22 were made, not misleading.

23 Second, that such material false statements or  
24 omissions must be made to an accountant in connection with,  
25 one, an audit or examination of the financial statements of the

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1 company, or two, the preparation or filing of any document or  
2 report required to be filed with the SEC.

3 As I said before, I've already gone through the  
4 elements for Count Two, securities fraud, unless your Honor  
5 would like me to repeat those again.

6 THE COURT: I do not need you to repeat those again.

7 Ms. Berman, would you or your client like to hear the  
8 elements of Count Two repeated?

9 They were included within Count One.

10 MS. BERMAN: No, your Honor.

11 THE COURT: You can continue, Ms. Castellano.

12 MS. CASTELLANO: Thank you.

13 Count Three is conspiracy to commit wire fraud. The  
14 elements are:

15 First, the existence of the conspiracy, that is the  
16 existence of an agreement or understanding to commit the  
17 unlawful object of the charged conspiracy, which in this case  
18 is wire fraud;

19 Second, that the defendant willfully and knowingly  
20 became a member of the conspiracy with the intent to further  
21 its illegal purpose, that is, with the intent to commit the  
22 object of the charged conspiracy, again here, which is wire  
23 fraud.

24 And wire fraud is what is charged in Count Four.  
25 The elements are that, in or about the time alleged in the

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1 information, there was a scheme or artifice to defraud others  
2 of money or property by false or fraudulent presentences,  
3 representations, or promises;

4 Second, that the defendant knowingly and willfully  
5 devised or participated in the scheme or artifice to defraud  
6 with knowledge of its fraudulent nature and with the specific  
7 intent to defraud;

8 Third, that in the execution of that scheme, the  
9 defendant used or caused the use by others of interstate or  
10 foreign wires.

11 The government would have to prove venue by a  
12 preponderance of the evidence, and as a preview for your Honor,  
13 I plan to proffer venue at the appropriate time during this  
14 proceeding.

15 THE COURT: OK. Is that everything?

16 MS. CASTELLANO: That is everything, your Honor.

17 THE COURT: OK. Thank you very much, Ms. Castellano.

18 Mr. Scott, I am now going to tell you the maximum  
19 possible penalties for these four crimes.

20 The maximum penalties mean the most that could  
21 possibly be imposed. What I am about to tell you does not mean  
22 that this is what you will receives punishment for the crimes  
23 to which you intend to plead guilty, but by pleading guilty,  
24 you are exposing yourself to the possibility of receiving a  
25 punishment or combination of punishments up to the maximum.

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1                   Do you understand that?

2                   THE DEFENDANT: Yes, I do, your Honor.

3                   THE COURT: All right. With respect to Count One,  
4 which charges you with conspiracy to commit securities fraud,  
5 the maximum term of imprisonment is five years, five years in  
6 prison, which could be followed by a term of supervised release  
7 of up to three years. If you are sentenced to supervised  
8 release, what that means is you will be subject to supervision  
9 by the probation department after you are released from prison.  
10 If you were to violate any condition of that supervised  
11 release, the court could revoke the term of supervised release  
12 previously imposed and return you to prison without giving you  
13 credit for time previously served on post-release supervision.

14                   Count One also carries a financial penalty, a fine, in  
15 the amount of \$250,000 or twice the profits of the criminal  
16 activity or twice what someone other than yourself lost because  
17 of the criminal activity, whichever is greater.

18                   Count Two, as you know, charges you with securities  
19 fraud. Count Two carries a maximum sentence of imprisonment of  
20 20 years, a maximum term of supervised release of three years,  
21 and a maximum fine of \$5 million or twice the profits of the  
22 criminal activity or twice what someone other than yourself  
23 lost because of the criminal activity, whichever is greater.

24                   Count Three, which charges you with conspiracy to  
25 commit wire fraud, carries a maximum term of imprisonment of

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1 20 years, a maximum term of supervised release of three years,  
2 and a maximum fine of \$250,000 or twice what someone other than  
3 yourself lost because of the criminal activity or twice the  
4 profits of the criminal activity, whichever is greater.

5 Finally, Count Four, which charges you with wire  
6 fraud, carries a maximum term of imprisonment of 20 years, a  
7 maximum term of supervised release of three years, and a  
8 maximum fine of \$250,000 or twice the profits of the criminal  
9 activity or twice what someone other than yourself lost because  
10 of that criminal activity, whichever is greater.

11 In addition, I am required by law to tell you that  
12 there is an additional special assessment, an extra fine, of  
13 \$100, which is required to be imposed on the each count of  
14 conviction.

15 You can also be required to pay restitution to any  
16 victims of the crimes in an amount that the court decides is  
17 required to compensate them for their injuries. And by  
18 pleading guilty in this case, you will admit to the forfeiture  
19 allegations contained in the information and agree to forfeit  
20 any property within the scope of 18, United States Code,  
21 Section 981(a)(1)(C), or 28, United States Code, Section  
22 2461(c).

23 Now, because you are not a citizen of the United  
24 States, I must also advise you that your guilty plea will  
25 likely have adverse consequences for your ability to return to

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1 or remain in the United States. Those consequences can include  
2 removal, deportation, denial of citizenship, should you apply,  
3 and denial of admission to the United States in the future.

4 Do you understand that these consequences may be  
5 mandatory?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: If that does happen, you will still be  
8 bound by your guilty plea. That is, you will not be able to  
9 withdraw it, regardless of any advice you have received from  
10 your counsel or from anyone else regarding the immigration  
11 consequences of your plea.

12 Do you understand that?

13 THE DEFENDANT: Yes, I do, your Honor.

14 THE COURT: Mr. Scott, has anyone threatened you or  
15 coerced you in any way to get you to plead guilty?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: It is my understanding that there is a  
18 written plea agreement between you and the government. It is  
19 contained in a letter dated May 19, 2021, addressed to  
20 Ms. Berman and Ms. Berkowitz. The copy that I have does not  
21 appear to have your signature on the last page, Mr. Scott.

22 Have you seen and have you counter signed the May 19  
23 plea agreement?

24 THE DEFENDANT: Yes, I have, and I have signed it.

25 THE COURT: OK.

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1                   THE DEFENDANT: On the 25th of May.

2                   THE COURT: Thank you very much.

3                   I will take a look in the file after I get off the  
4 phone call and make sure we have a copy of that. If not, we  
5 will request a copy from counsel.

6                   Did you read the plea agreement before you signed it?

7                   THE DEFENDANT: Yes, your Honor.

8                   THE COURT: Did you discuss it with your attorneys?

9                   THE DEFENDANT: Yes, your Honor.

10                  THE COURT: Do you understand its terms?

11                  THE DEFENDANT: Yes, your Honor.

12                  THE COURT: Has anyone promised you anything or  
13 offered you anything in order to get you to plead guilty other  
14 than what is actually in the plea agreement?

15                  THE DEFENDANT: No, your Honor.

16                  THE COURT: All right. I note that your plea  
17 agreement refers to the possibility that the government may  
18 advise the sentencing judge by letter that you have given the  
19 government substantial cooperation that could lead to a  
20 reduction in your potential prison sentence.

21                  Do you understand that the agreement does not  
22 absolutely require the government to do this?

23                  THE DEFENDANT: Yes, I do.

24                  THE COURT: Do you understand that the government may  
25 choose not to submit such a letter based on its own assessment

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1 of your compliance with the plea agreement and the extent of  
2 your cooperation?

3 THE DEFENDANT: Yes, I am aware, your Honor.

4 THE COURT: Thank you.

5 Do you understand that under the terms of your plea  
6 agreement, even if you later learn that the government withheld  
7 from your counsel information that would have been helpful to  
8 you in defending yourself at trial, you will not be able to  
9 complain about that or withdraw your guilty plea on that basis?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand that the terms of the  
12 plea agreement, including any recommendations that may later be  
13 made by the government related to sentencing, are not binding  
14 on the sentencing judge?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: The sentencing judge may reject such  
17 representations and could impose a more severe sentence than  
18 you expect without permitting you to withdraw your plea of  
19 guilty. The sentencing judge will be required to make his own  
20 independent calculation of the appropriate sentencing range for  
21 you under a part of our law called the sentencing guidelines,  
22 and will also have the discretion to give you a sentence below  
23 that range or above that range up to the maximum that I told  
24 you about earlier.

25 In addition to the guidelines and possible departures

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1 from the guidelines, the sentencing judge will consider the  
2 factors set forth at 18, United States Code, Section 3553(a).  
3 In other words, the sentencing judge will pronounce whatever  
4 sentence he believes is the appropriate sentence for you, even  
5 if that sentence is different from the one recommended by the  
6 government as a result of your cooperation.

7 Do you understand that?

8 THE DEFENDANT: Yes, I do, your Honor.

9 THE COURT: The court will consider a presentence  
10 report that will be prepared by the probation department in  
11 advance of your sentencing. Before you are sentenced, you and  
12 the government will have the opportunity to challenge the facts  
13 reported in the probation report.

14 Do you understand, Mr. Scott, that in our federal  
15 system, there is no parole? If you are sentenced to prison, in  
16 other words, you are not be released on parole?

17 THE DEFENDANT: Yes, I am aware, your Honor.

18 THE COURT: OK. Before I go on, let me ask the  
19 government and defense counsel if there are any other  
20 provisions of the plea agreement that you would like me to go  
21 over with Mr. Scott, Ms. Castellano?

22 MS. CASTELLANO: No, your Honor. Thank you.

23 THE COURT: Ms. Berman?

24 MS. BERMAN: No, your Honor. Thank you.

25 THE COURT: All right. One more time, Mr. Scott,

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1 because it is an important question: Have any promises been  
2 made to you to influence you to plead guilty, other than what  
3 is in your written plea agreement?

4 THE DEFENDANT: No, there has not been, your Honor.

5 THE COURT: Have any premises been made to you  
6 concerning the actual sentence that you will ultimately  
7 receive?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Now, that you have been advised of the  
10 charges against you, the possible penalties that you face, and  
11 the rights that you are giving up, is it still your intention  
12 to plead guilty to Counts One, Two, Three, and Four of the  
13 information?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Is your plea voluntary and made of your  
16 own free will?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Mr. Scott, with respect to Count One, how  
19 do you plead; guilty or not guilty?

20 THE DEFENDANT: Guilty, your Honor.

21 THE COURT: With respect to Count Two, how do you  
22 plead?

23 THE DEFENDANT: Guilty, your Honor.

24 THE COURT: With respect to Count Three, how do you  
25 plead?

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1                   THE DEFENDANT: Guilty, your Honor.

2                   THE COURT: With respect to Count Four, how do you  
3 plead?

4                   THE DEFENDANT: Guilty, your Honor.

5                   THE COURT: I will now ask you to tell me in your own  
6 words what you did that makes you guilty of those crimes.

7                   THE DEFENDANT: In 2015, I was working as an executive  
8 vice president of operations for SA Exploration, a publicly  
9 traded side I can data acquisition company.

10                  THE COURT: Hold on. Let me just slow you down for  
11 the benefit of the court reporter.

12                  SA, letter S, letter A, Exploration, correct?

13                  THE DEFENDANT: Correct.

14                  THE COURT: Go ahead, sir.

15                  THE DEFENDANT: OK. I apologize.

16                  That year, Alaskan Seismic Ventures, a data library  
17 company, contracted for SAE to provide GFA acquisition services  
18 for ASV. In late 2015, after learning that ASV could not pay  
19 SAE for work SAE had done, I agreed with others to create false  
20 documents that made it appear that SAE had rented seismic  
21 equipment from another company, Global Equipment Solutions,  
22 GES.

23                  In connection --

24                  THE COURT: I'm sorry. Let me stop you again.

25                  Global Equipment -- what was the third name?

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1                   THE DEFENDANT: Solutions.

2                   THE COURT: Solutions.

3                   Global Equipment Solutions, GES. Thank you.

4                   THE DEFENDANT: Yes.

5                   In connection with SAE's work for ASV, I knew,  
6 however, that SAE did not actually rent this equipment from  
7 GES. By preparing these documents, I knew that GES would  
8 invoice SAE for these supposed rentals, which SAE then paid to  
9 GES. I did this understanding that the money paid to GES would  
10 go through ASV, which would then enable ASV to pay SAE. As a  
11 result, SAE paid GES approximately \$12 million in fake expenses  
12 that SAE should not have paid. I agreed to do this because I  
13 understood it was likely the only way that SAE would be able to  
14 survive financially, pay its employees and vendors, and avoid  
15 bankruptcy.

16                   I knew that this had the effect, among other things,  
17 of making SAE's public filings inaccurate and misleading. I  
18 also knew that information being provided to SAE's auditors was  
19 inaccurate.

20                   I know that after this happened, SAE's stock, which  
21 traded on the NASDAQ, continued to be purchased and sold. I  
22 also understand that, as part of this conduct, wires were used,  
23 for example, to make payments and telephone calls.

24                   I knew what I was doing was wrong.

25                   THE COURT: Ms. Castellano, do you believe that is a

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1 sufficient factual predicate for the guilty plea?

2 I know that you wish to make a proffer and that you  
3 need to connect up the venue element. But before that, are  
4 there any additional questions you would like me to ask the  
5 defendant?

6 MS. CASTELLANO: No additional questions, your Honor.  
7 Thank you.

8 THE COURT: All right. Now, Mr. Scott, did your  
9 attorney help prepare the testimony you just gave?

10 THE DEFENDANT: Yes, I worked with my attorney on  
11 this.

12 THE COURT: Do you adopt those words as your own?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Is everything that you just told me true?

15 THE DEFENDANT: Yes, it is.

16 THE COURT: All right. Ms. Castellano, does the  
17 government represent that it has sufficient evidence to  
18 establish guilt beyond a reasonable doubt at trial and would  
19 you like to make a proffer?

20 MS. CASTELLANO: Yes, your Honor.

21 The evidence at trial would include, among other  
22 things, e-mail messages, bank records, and SEC filings, as well  
23 as witness testimony, including the testimony of the company  
24 that is SAE's outside auditor, shareholders, and bondholders,  
25 among others.

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1                   THE COURT: Now what took place in the Southern  
2 District of New York?

3                   MS. CASTELLANO: Yes, your Honor.

4                   As to Counts One and Two, venue is appropriate in the  
5 Southern District of New York because, among other things, in  
6 connection with efforts to secure a loan for ASV, one of the  
7 conspirators sent an e-mail message via SAE's e-mail servers,  
8 which were located outside the State of New York, to financial  
9 institutions in the Southern District of New York, falsely  
10 representing that SAE did not provide any funds to ASV.

11                  And, among other things, SAE investors in the Southern  
12 District of New York reviewed the SEC filings that contained  
13 the falsely inflated revenue and other false statements and  
14 omissions.

15                  As to Counts Three and Four, venue is appropriate in  
16 the Southern District of New York because the scheme to  
17 misappropriate SAE's funds utilized interstate wires, including  
18 e-mails and telephone calls to and from New York, New York,  
19 such as an e-mail message sent from an SAE server outside the  
20 State of New York to an employee of a financial institution  
21 located in the Southern District of New York, regarding an  
22 account that was used to, among other things, hold and  
23 distribute certain of the misappropriated funds.

24                  THE COURT: Let's just do belt and suspenders here.

25                  Ms. Berman, does your client waive any objections to

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1       venue in the Southern District of New York?

2            MS. BERMAN: Yes, your Honor.

3            THE COURT: All right. Mr. Scott, on the basis of  
4        your responses to my questions and my observations, not really  
5        my observations, but my --

6            Is it observation when you're just listening to  
7        somebody?

8            On the basis of your responses to my questions and my  
9        ability to listen to the tone of your voice, I find that you  
10       are competent to enter a guilty plea. I am satisfied that you  
11       understand your rights, including your right to have your case  
12       considered by a grand jury, which you waived, and your right to  
13       go to trial, which you also waived.

14           I conclude that you are aware of the consequences of  
15       your plea, including the sentence that may be imposed, that you  
16       are voluntarily guilty, and that you have admitted that you are  
17       guilty as charged in Counts One through Four of the  
18       information.

19           For these reasons, I will recommend that the district  
20       judge accept your plea.

21           I take it that there is no sentencing date at this  
22       time, correct, Ms. Castellano?

23           MS. CASTELLANO: That's correct.

24           THE COURT: All right. I will nonetheless ask the  
25       government to order a transcript and submit it to the district

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1 judge, together with the additional paperwork that he will need  
2 to act on my recommendations. The presentence report will not  
3 be prepared yet, so we won't do that, but we do need to discuss  
4 conditions of release.

5 Ms. Castellano, have you and Ms. Berman discussed  
6 that?

7 MS. CASTELLANO: We have, your Honor. We have put  
8 together a bail package for your Honor's consideration, but I'm  
9 happy to present now.

10 THE COURT: Go ahead.

11 MS. CASTELLANO: It would include a \$100,000 personal  
12 recognizance bond, secured by \$10,000 cash, and cosigned by two  
13 financially responsible people. Pretrial supervision as  
14 directed. Travel restricted to Canada, the Southern District  
15 of New York, the Eastern District of New York, and the District  
16 of New Jersey, and points in between for travel. That the  
17 defendant refrain from communication --

18 THE COURT: Hold on. Is the District of New Jersey in  
19 there because that is where the Newark Airport is, or for some  
20 other reason?

21 MS. CASTELLANO: It is for the airport, your Honor.

22 THE COURT: So the District of New Jersey is only for  
23 transit purposes, correct?

24 MS. CASTELLANO: That's correct, your Honor.

25 THE COURT: He's not going to be going to the Jersey

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1 Shore and hanging out on the beach?

2 MS. CASTELLANO: That's my understanding.

3 THE COURT: OK. Go ahead.

4 MS. CASTELLANO: That's correct.

5 THE COURT: All right.

6 MS. CASTELLANO: Refrain from communications with  
7 coconspirators, known witnesses, or victims outside the  
8 presence of counsel. And refrain from the conduct alleged  
9 within the charging document.

10 All conditions to be met within two weeks, which is  
11 June 9, 2021.

12 THE COURT: He need not surrender his passport,  
13 obviously, because he needs to travel back and forth?

14 MS. CASTELLANO: That's correct, your Honor.

15 THE COURT: OK. Backing up a little bit, you said no  
16 contact with coconspirators. By coconspirators, do you mean  
17 the now codefendants in the same case?

18 MS. CASTELLANO: Yes, your Honor.

19 THE COURT: All right. So let's say codefendants  
20 there.

21 Known witnesses and known victims, is that correct?

22 MS. CASTELLANO: That's right.

23 THE COURT: And you said that the defendant is to  
24 refrain from the conduct alleged in the information. That's a  
25 little vague for my taste.

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1                   Can you be more specific, or do you need that at all,  
2 since it is always a condition of release that the defendant  
3 commit no crimes?

4                   MS. CASTELLANO: We do not need it, your Honor.

5                   THE COURT: Great. We will just take that out.

6                   All right. Any clarifications or requests,  
7 Ms. Berman?

8                   MS. BERMAN: No, your Honor.

9                   THE COURT: OK. Having reviewed the file in this  
10 matter, Mr. Scott, and on the joint recommendation of counsel,  
11 I will release you on the following agreed upon conditions:

12                  You will sign a personal recognizance bond in the  
13 amount of \$100,000. It must be cosigned by two financially  
14 responsible persons acceptable to the U.S. Attorney's office in  
15 the Southern District of New York. It will be secured by  
16 \$10,000 cash.

17                  Your travel in the United States will be restricted to  
18 the Southern and Eastern Districts of New York. And  
19 additionally, you may transit through the District of New  
20 Jersey, but that is only in order to come to and from court  
21 here in the Southern District of New York. The Eastern  
22 District is in there, as you probably know, because that is  
23 where the other two airports are, La Guardia and Kennedy.

24                  For other travel restrictions are simply the nation of  
25 Canada. You are not to go jetting off to Europe this summer no

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1 matter whether you have a vaccine passport or not. You will be  
2 subject to pretrial supervision as directed by pretrial  
3 services. You will have no contact with your codefendants,  
4 with the known witnesses, or the known victims, except in the  
5 presence of counsel.

6 Is that correct, Ms. Castellano?

7 MS. CASTELLANO: Yes, your Honor.

8 THE COURT: And you will have two weeks to comply with  
9 the conditions that require you to do something affirmative,  
10 such as signing a bond, having your cosigners sign the bond,  
11 and securing a bond with cash.

12 Did I miss anything, counsel?

13 MS. CASTELLANO: No, your Honor. Thank you.

14 MS. BERMAN: Your Honor, I think you did not say  
15 points in between because I know you -- I think I missed that.  
16 But I would just note that if he takes a connecting flight,  
17 there might be layovers in other places in the U.S. Perhaps if  
18 you could just say points in between, as necessary for transit  
19 to the Southern District of New York.

20 THE COURT: That's fine. I will write it that way and  
21 that is understood.

22 You don't have to take a direct flight. You should,  
23 in my opinion, but if you can't get one, you can change planes  
24 and so on in order to get here when you need to be here.

25 MS. BERMAN: Thank you.

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1                   THE COURT: Let me warn you, Mr. Scott, let me give  
2 you the bail warnings here.

3                   If you fail to appear in court when you need to be  
4 here or if you violate any of the conditions of your release,  
5 the following things will happen:

6                   A warrant will be issued for your arrest. You and  
7 anyone who cosigned your bond can each be made responsible for  
8 paying the full amount. And you can be charged with a separate  
9 crime known as bail-jumping. In addition, if you commit any  
10 new crime while you are released on bail in this case, that may  
11 lead to a more severe punishment than you would get for  
12 committing the same crime if you were not on bail at this case  
13 at the time. You would, in fact, be sentenced to an additional  
14 term of imprisonment, which could be up to ten years, if the  
15 new offense is a felony, up to one year if the offense is a  
16 misdemeanor. That term will be executed after and on top of  
17 any other sentence of imprisonment is completed.

18                   Of course, if you commit a crime or violate your plea  
19 agreement with the government in any way, you will risk  
20 revocation by the government of your plea agreement with all of  
21 the consequences described in that agreement.

22                   Do you understand what I have told you?

23                   THE DEFENDANT: Yes, I do, your Honor.

24                   THE COURT: All right. Anything further on this  
25 matter from either side?

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1 MS. BERMAN: No, your Honor. Thanks very much.

2 MS. CASTELLANO: No, your Honor. Thank you.

3 THE COURT: Thank you very much. We will be  
4 adjourned.

5 (Adjourned)

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